

THE HON'BLE SRI JUSTICE V.V.S.RAO

WRIT PETITION NO.19786 OF 2005

DATED:8.9.2005

Between:

Aktat Ahmed

S/o.Mohd. Khaja Khadri

R/o.H.No.2-2-73, Ward No.27, Ranjal Bave,

Dhangar Galli, Bhodan, Nizamabad District

...Petitioner

And

The District Collector, Nizamabad,

Nizamabad District and others.

...Respondents

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ORDER:

The petitioner is statedly a resident of Ward No.27 of Bodhan Municipality. On the eve of elections to municipalities 2005, Ward No.27 was reserved for Scheduled Caste (General) in accordance with A.P. Municipalities (Reservation of Seats in Municipal Councils and Nagar Panchayats) Rules, 1995 (for short, the Rules). Challenging the same, present Writ Petition is filed.

The petitioner contends that Ward No.27 ought to have been reserved for general category and therefore the exercise taken up by second respondent is illegal and

arbitrary. Besides praying for a declaration as such, the petitioner also seeks a direction to respondents to treat Ward No.27 of Bodhan Municipality as earmarked for general category for municipal elections 2005.

Learned counsel for the petitioner relies on Rules 7 and 12 of the Rules in support of the contention that the procedure followed by respondents 1 and 2 in reserving Ward No.27 for S.C. (General) is illegal and in contravention of the said Rules. Further, it is contended that during the last municipal elections Ward No.27 was reserved for B.C., and prior there to, continuously for three municipal elections, ward No.27 was reserved for S.C. Therefore, he would contend that rule of rotation contemplated under Section 7 of the Rules is vitiated.

Learned Standing Counsel for respondent Municipality Sri P.Radha Krishna, after getting instructions in the matter, submits that after preparing the draft notification, the same was sent to Special Officer of the Municipal Council which is sufficient compliance with Rule 12(1) of the Rules. Secondly, he relies on amendment made to the Rules by G.O.Ms.No.749, dt.13.8.2005. Rule 7 of the Rules postulates that seats reserved for Scheduled Tribes, Scheduled Castes, Backward Classes and Women shall be allotted by rotation to different wards in municipality and the reservation shall be started afresh without reference to the reservation of seats made for earlier elections.

By the amendment made in G.O.Ms.No.749, dt.13.8.2005, it is now provided that wherever the exercise of division of municipalities into wards under A.P. Municipalities (Division of Nagar Panchayats and Municipalities into Wards) Rules, 1994 is taken up, cycle of reservation of seats shall start afresh. There is no denial that recently there was division of municipal wards in Bodhan Municipality and therefore cycle of reservation has to be started afresh. In that view of the matter, whatever happened during earlier elections is of no relevance. Further, the Government of Andhra Pradesh by their orders in G.O.Ms.No.37, dt.3.2.1995 delegated the powers to Commissioner and Director of Municipal Administration to fix number of offices and members to be reserved for Scheduled Tribes/Scheduled Castes/Backward Classes/Women. Curiously, the Commissioner and Director of Municipal Administration is not even made a party respondent to this Writ Petition. Furthermore, Article 243-ZG of the Constitution of India is a bar for exercise of jurisdiction under Article 226 of the Constitution of India in relation to validity of allotment of seats to the constituencies in a municipality.

The Writ Petition, for the above reasons, is misconceived and is accordingly dismissed. No costs.

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(V.V.S.RAO, J)

8.9.2005

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